

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/783,558	Confirmation No.	7539
Appellants	:	Robert F. Day, et al.		
Filed	:	02/20/2004		
Title	:	METHOD AND SYSTEM FOR PROTECTING USER CHOICES		
Group Art Unit	:	2439		
Examiner	:	Roderick Tolentino		
Docket No.	:	304666.01/MFCP.143750		
Customer No.	:	45809		

VIA EFS – [September 08, 2011]

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL AND PRE-APPEAL BRIEF REQUEST FOR REVIEW

This is a Notice of Appeal from a Final Office Action mailed March 10, 2011, rejecting claims 1-13, 15-25, and 27-29. These claims were finally rejected by the United States Patent and Trademark Office. Appellants do not file an amendment with this request. Appellants file this Notice of Appeal along with a Pre-Appeal Brief Request for Review. See 37 C.F.R. § 41.31; and New Pre-Appeal Brief Conference Pilot Program, 1296 Off. Gaz. Pat. Office 67 July 12, 2005). The Commissioner is hereby authorized to charge any additional fee that may be due, or credit any overpayment, to Deposit Account No. 21-0765 referencing Attorney Docket Number SPRI.131221.

Remarks: begin on page 2 of this paper.

REMARKS

Status of Claims

Claims 1-13, 15-25, and 27-29 are finally rejected. 1, 12 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0199763 (“Freund”), U.S. Patent Publication No. 2004/0003279 (“Beilinson”), and U.S. Patent Publication No. 2004/0193606 (“Arai”). Claims 2-8, 10-11, 15-18, 20-25, and 28-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Freund, Beilinson, Arai, and U.S. Patent Publication No. 2002/0143961 (“Siegel”). Claims 9, 13, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Freund, Beilinson, Arai, Siegel, and U.S. Patent No. 6,370,141 (“Giordano III”). Claim 19 and its dependent claims were rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Appellants earnestly solicit reconsideration and allowance of the claims in view of the following remarks.

Legal Deficiencies

Contrary to the Office’s allegation, claims 19-25 and 27-29 are statutory subject matter. Appellants’ specification explains that one of ordinary skill in the art understands that a memory stores data for a computing device. Further, a skilled artisan would interpret a computer-accessible storage medium to be a memory. Nothing in Appellants’ specifications or claims recite a signal. Instead, claim 19 is a Beauregard claim that is patent eligible subject matter. See In re Beauregard, 53 F.3d 1583 (Fed. Cir. 1995). The record is devoid of any evidence that, at the time of the invention, the plain and ordinary meaning of computer-accessible storage medium included signals. Phillips v. AWH Corp., 415 F.3d 1303, 1313 (Fed.

Cir. 2005) (the ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application.) Accordingly, Appellants respectfully request withdrawal of the 35 U.S.C. § 101 rejection and allowance of independent claims 19-25 and 27-29.

Factual Deficiencies

Appellants respectfully remind the Office that “Office personnel fulfill the critical role of factfinder . . . Office personnel must therefore ensure that the written record includes findings of fact concerning the state of the art and the teachings of the references applied. In certain circumstances, it may also be important to include explicit findings as to how a person of ordinary skill would have understood prior art teachings.” See, MPEP § 2141. The Office has failed to establish that Freund, Beilinson, and Arai fairly describes or suggests all elements of claims 1, 12 and 19.

Freund describes a method of blocking attempts to invoke a system service based on rules that specify the services accessible by an application. At best, Freund, at paragraphs [0041-0043] and [0079]-[0082], prevents an application from accessing a communication service, e.g., Internet service. Beilinson, at [0006] and [0065], describes an administrator to restrict a user's logon hours, logon duration, access to computer functions, and access to applications based on content rating. At best, Beilinson, at paragraphs [0068]-[0071], explains that a user may request temporary increases in access privileges. Arai, at [002] and [0013], describes a system for managing system policies. Arai, also, describes an interface that is used to establish a policy.

First, Freund, Beilinson, and Arai, fail to describe or suggest, among other things, *securing, at the computing device of the user, the user choice setting as a protected value using an access control indicator, wherein the access control indicator prohibits a second application from modifying the prioritized user choice setting associated with the first application without authorization from the user; receiving, at the computing device of the user, a request from the second application to modify the prioritized user choice setting associated with the first application; in response to receiving the request from the second application to modify the prioritized user choice setting associated with the first application, generating an approval user interface on the computing device of the user, the approval user interface requesting authorization from the user to modify the prioritized user choice setting associated with the first application to be consistent with the modification request received from the second application, as recited in independent claim 1.*

Second, Freund, Beilinson, and Arai, fail to describe or suggest, among other things, *registry for storing a user choice setting associated with a first application as a protected value in a registry key, wherein the user choice setting determines at least one property of execution of at least one event of the first application, and wherein the user choice setting comprises at least one of a user preference relating to a file association, an autoplay setting, contents of a start menu, a registered client, a protocol handler, a MIME type handler, a task association, an internet explorer home page, a reset Web page setting, and a sidebar setting; and an access control list (ACL) to secure the registry key, wherein the ACL prevents the first application or another application from modifying the user choice setting associated with the first application; as recited in independent claim 12.*

Finally, Beilinson, and Arai, fail to describe or suggest, among other things, *securing the prioritized user choice setting as a protected value using an access control indicator, wherein the access control indicator prohibits the application from modifying the prioritized user choice setting; receiving a request from the application to modify the prioritized user choice setting; and in response to the request from the application to modify the prioritized user choice setting, generating an approval user interface requesting authorization from the user to modify the prioritized user choice setting in accordance with the modification request received*, as recited in independent claim 19.

The obviousness rejections based on Freund, Beilinson, and Arai should be withdrawn because the record fails to establish that one of ordinary skill in the art with the benefit of the teachings and suggestions of Freund, Beilinson, and Arai could arrive at the invention of independent claims 1, 12, and 19.

CONCLUSION

For at least the reasons stated above, the pending claims are now in condition for allowance. Appellants respectfully request withdrawal of the pending rejections and allowance of the claims.

Respectfully submitted,

/MONPLAISIR HAMILTON/

MONPLAISIR HAMILTON
Reg. No. 54,851

MGH
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550